

REMARKS

Applicants have amended claims 6 and 11 to remove the limitation “by electroporation” as the means for transfecting the mesenchymal stem cell with a nucleic acid encoding a protein or peptide.

Support for removing the limitation can be found in the specification at, for example, at page 12, line 14 that states: “Alternatively, the hMSCs can be transfected to express genes that produce small therapeutic molecules capable of permeating gap junctions and influencing recipient cells.”

Note that there is no limitation on how the hMSCs are transfected. Transfected by electroporation is only one means of transfecting a cell, whether it is an hMSC or other cell type, such as HeLa cells. Other means are well known in the art.

Further, claim 17 in non-elected Group 2 and claim 28 in nonelected Group 3, describe transfected hMSCs without including any limitation as to how they are transfected:

17. The use of mesenchymal stem cells of claim 13 wherein the cells are transfected to express a gene.

28. The bypass tract of claim 24 wherein the cells are transfected with a gene.

Therefore applicants submit that no new matter was added to claim 6 and claim 11 by deleting “by electroporation.”

Formalities

Claim 11 was rejoined by the Examiner. Amendments that do not affect the scope of the claims were made to claims 11 and 12 to make them consistent with each other and with claim 6.

Applicants therefore respectfully submit that claims 6, 11 and 12 as hereby amended are fully supported and do not introduce new matter.

Applicants respectfully submit that the present application, as amended, overcomes the objections and rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the

Examiner telephone the undersigned attorney at (703) 622-6528 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 505429 and please credit any excess fees to such deposit account.

Respectfully Submitted,

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